

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

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Court of Appeals, District of Columbia

OCTOBER TERM, 1907.

No. 1796.

498

No. 3 SPECIAL CALENDAR.

JOHN COLLINS, PLAINTIFF IN ERROR,

vs.

DISTRICT OF COLUMBIA.

IN ERROR TO THE POLICE COURT OF THE DISTRICT OF COLUMBIA.

FILED JUNE 21, 1907.

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

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In the Court of Appeals of the District of Columbia.

No. 1796.

JOHN COLLINS, Plaintiff in Error,
vs.
DISTRICT OF COLUMBIA.

No. 304,566.

a In the Police Court of the District of Columbia, May Term, 1907.

DISTRICT OF COLUMBIA
vs.
JOHN COLLINS.

Information for Violation of Electric Wiring Regulations.

Be it remembered, That in the Police Court of the District of Columbia, at the City of Washington, in the said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above entitled cause, to wit:

1 (Information.)

In the Police Court of the District of Columbia, May Term, A. D. 1907.

THE DISTRICT OF COLUMBIA, ss:

Edward H. Thomas, Esq., Corporation Counsel, by James L. Pugh, Jr., Esq., Assistant Corporation Counsel, who, for the District of Columbia prosecutes in this behalf in his proper person, comes here into Court, and causes the Court to be informed, and complains that John Collins, late of the District of Columbia aforesaid, on the 23rd day of April, in the year A. D. nineteen hundred and seven, in the District of Columbia aforesaid, and in the City of Washington, on "C" Street, northwest, did then and there change and extend a certain electric wiring system in premises #467 on said street without first having obtained a permit so to do; contrary to and in violation of the Electric Wiring Regulations of the District of Columbia, and constituting a law of the District of Columbia.

EDWARD H. THOMAS,
Corporation Counsel,
By JAMES L. PUGH, JR.,
Assistant Corporation Counsel.

Personally appeared P. D. Breen this 7th day of May, A. D. 1907, and made oath before me that the facts set forth in the foregoing information are true, and those stated upon information received he believes to be true.

[Seal Police Court of District of Columbia.]

J. B. PEYTON,

Deputy Clerk, Police Court of the District of Columbia.

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In the Police Court of the District of Columbia.

No. 304,566.

DISTRICT OF COLUMBIA

vs. .

JOHN COLLINS.

Bill of Exceptions.

Be it remembered that at the trial of this cause in the Police Court on the 4th day of June, 1907, before the Honorable Ivory G. Kimball, the Justice Holding said Court and a jury regularly empanelled to try said cause, the District of Columbia, to maintain the issue joined on its behalf called as a witness PATRICK D. BREEN who being duly sworn testified substantially as follows: that he is an inspector in the Electric Department of the District; that on the 23d day of April last he found upon inspection of premises No. 467 C street, Northwest that moulding had been run from the basement to room four and that electric wiring had been done: the defendant himself told witness that he, the defendant had done the wiring, and admitted it: that no permit was issued for the work prior to its being done. On cross-examination witness said the wiring was left open at the meter or place where the meter would be: that the meter was not installed: that in the ordinary course the meter would be installed by the Potomac Electric Power Company after final inspection by the District: that no current could be otherwise had: that he did not know whether the defendant had filed an application before beginning the work.

And thereupon, CARLETON E. MOSS, another witness on behalf of the District of Columbia testified in substance as follows: that he is the permit clerk of the Electrical Department of the District:

3 that an application was made by the defendant for permission to install wiring on the 23d day of April last but was not granted: the application was returned to the party for the purpose of getting signatures of the property holders: that he did not know whether it was returned to the proper office or not: that it was not returned to him: that electric current could not be lawfully supplied through the wires installed without the direction of his office: that one section of the regulations provides that before current shall be

put on by the Electric Company there shall be a final inspection of the system and orders to let the electricity go, and thereupon the prosecution rested.

The defendant thereupon to maintain the issue on his part joined testified that the paper marked "Defendant's exhibit A" bore his signature: that it is the paper referred to in the testimony of the witness, Moss, and is the application for permission to do the wiring: that the application was filed on the 23d day of April before the work was done: that it came back to him in its present condition: it came back for the owner's signature: that after the application was filed he did the work: that he did not have a permit: he only had what is mentioned on the paper. And thereupon the witness was asked by his counsel why he did the work with nothing before him but the application so indorsed, counsel stating he desired to prove that the defendant did the work supposing *that* the said indorsement to be a recitation by the proper officer that a permit had been granted and filed, basing that supposition on what is said in the indorsement on the application, to which the District of Columbia, by its counsel objected and the court sustained the objection and refused to allow the question to be answered, to which refusal the defendant noted an

4 exception. The defendant then offered the said paper in evidence for the same purpose and upon objection by the prosecution the same was excluded by the court, to which ruling the defendant duly noted exception. There being no further evidence, cross-examination or rebuttal evidence the case was closed, and this being in substance the whole case and there being no other or further evidence given or offered the defendant moved the court to direct the jury to find the defendant not guilty for reasons:

First. Because the regulation does not require a permit to be obtained before doing the work but only requires an application for permission to do the work before beginning it.

Second. Because the regulation is unreasonable and unauthorized, because the act authorizing the commissioners to make regulations in reference to electricity only contemplates regulations necessary to control the installation of current, and because it is unreasonable to restrict owners of property from wiring their houses or causing them to be wired by employees so long as the authorities have power to control the allowance of current. The court overruled the motion and to his ruling the defendant duly noted an exception.

Thereupon the defendant through his counsel offered the following instructions:

1. The jury are instructed to find the defendant not guilty because the regulation under which the information is filed is unauthorized and unreasonable.

2. The jury are instructed that their verdict shall be not guilty because there is no evidence that the defendant began the work complained of without first making application for permission to do the work.

3. The jury are instructed to find for the defendant because there

5 is no evidence that he did the work without first applying for permission and because the law does not require a permit to be obtained. That each and all of the said instructions were by the court denied *by the court*, to whose ruling in denying the same and each of them the defendant duly noted exceptions, and thereupon the jury retired to consider of their verdict and returning to the court found and rendered a verdict of guilty against the defendant, and the court entered judgment of guilty against the defendant from which judgment the defendant in open court gave notice of his intention to apply for a writ of error.

And as the foregoing matters and things are not of record the defendant prays the court to sign and seal this his bill of exceptions and to cause the same to be entered of record which is accordingly done, now for then this 6th day of June, 1907.

By the Court:

(Signed)

I. G. KIMBALL, *Justice*. [SEAL.]

[Endorsed:] No. —. District of Columbia v. John Collins. Copy Bill of Exceptions.

6 No. Brick Required —.

Permit No. —.

Fill Out in Copying Ink.

Application for Permit to Repair or Reconstruct Buildings.

WASHINGTON, D. C., April 23, 1907.

To the Inspector of Buildings:

The undersigned owner hereby applies for a permit to make repairs on the following described building:

1. What is the owner's name? Harper.
2. " " architect's name? — — —.
3. " " contractor's name? John Collins.
4. " " house number? 467 C St. N. W. Street Avenue
5. " " nearest intersecting street? 6 St.
6. " " number of lot? — block square —. subdivision —.
7. State how many buildings to be repaired. 1. Material of house. Brick. Roof, Tin.
8. No. stories in height 6. Width of front —. No. of feet deep 100.
9. How is the building occupied? Office. If a dwelling, how many families? —.
10. Will the building be wired for *Electric lighting, heating, or power*? Power.
11. After alteration, will the building conform, in every respect, with the requirements of the building law? —.
12. Have deposited \$ one as required by order of Commissioners to cover cost of any damage to public property.
13. Collector's receipt for above deposit, No. —. Date — —, —.
14. What is the estimated cost of the improvement? \$60.00.

Nature of Proposed Alterations, &c.

Give Definite Particulars.

To be wired for $\frac{1}{2}$ H. P. motor.

Wiring to be in moulding, for running one printing press.

Wa-tered on ground floor.

Upon examination of premises I find motor & press will be located on ground floor. Signature on file with permit No. 1290/04.

A. K. SELDEN,
Ass't Insp. Bldg.

A certificate must be obtained from the Plumbing Inspector before this application will be considered by the Inspector of Buildings.

Signature of Owner: ROBERT N. HARPER.

Applicant: JOHN COLLINS,

Address: 402 6th St. N. W.

[Endorsed:] Permit No. —. Application for Permit for Repairs, Alterations, &c. Owner ——— Location *Street* 467 C St. N.W. Lot —. Block — Square —. Subdivision —. Permit granted ———, 190—. Value, \$—.

[Endorsed:] Def't Exhibit A. Memoranda. Filed Jun- 4 1907 Joseph Y. Potts, Clerk Police Court, D. C.

7 (Copy of Docket Entries.)

No. 304,566.

In the Police Court of the District of Columbia, May Term, A. D. 1907.

DISTRICT OF COLUMBIA

vs.

JOHN COLLINS.

Information for Violation of Electric Wiring Regulations.

Defendant arraigned Thursday, May 9, 1907. Plea: Not guilty. Jury trial demanded. Continued to June 4, 1907.

June 4, 1907: Verdict: Guilty. Judgment: Guilty. Sentence: To pay a fine of fifteen dollars, and, in default, to be committed to the Workhouse for the term of thirty days.

Exceptions taken to the rulings of the Court on matters of law and notice given by defendant in open Court, at the time of the several rulings, of his intention to apply to a Justice of the Court of Appeals of the District of Columbia for a writ of error.

Recognizance in the sum of one hundred dollars entered into on writ of error to the Court of Appeals of the District of Columbia upon the condition that in the event of the denial of the application

for a writ of error, the defendant will, within five days next after the expiration of ten days, appear in the Police Court and abide by and perform its judgment, and that in the event of the granting of such writ of error, the defendant will appear in the Court of Appeals of the District of Columbia and abide by and perform its judgment in the premises.

WILLIAM W. STEWART, *Surety*.

Thereupon further proceedings stayed for ten days.

June 6, 1907: Bill of exceptions filed, settled and signed.

June 15, 1907: Writ of error received from the Court of Appeals of the District of Columbia.

8 In the Police Court of the District of Columbia.

UNITED STATES OF AMERICA, *District of Columbia*, ss:

I, Joseph Y. Potts, Clerk of the Police Court of the District of Columbia, do hereby certify that the foregoing pages, numbered from 1 to 7 inclusive, to be true copies of originals in cause No. 304,566 wherein the District of Columbia is plaintiff and John Collins defendant, as the same remain upon the files and records of said Court.

In testimony whereof I hereunto subscribe my name and affix the seal of said Court, the City of Washington, in said District, this 21st day June A. D. 1907.

[Seal Police Court of District of Columbia.]

JOSEPH Y. POTTS,
Clerk Police Court, Dist. of Columbia.

9 UNITED STATES OF AMERICA, ss:

The President of the United States to the Honorable I. G. Kimball,
Judge of the Police Court of the District of Columbia, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Police Court, before you, between District of Columbia, Plaintiff, and John Collins, Defendant, a manifest error hath happened, to the great damage of the said Defendant, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Court of Appeals of the District of Columbia, together with this writ, so that you have the same in the said Court of Appeals, at Washington, within 15 days from the date hereof, that the record and proceedings aforesaid being inspected, the said Court of Appeals may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Seth Shepard, Chief Justice of the said Court of Appeals, the 15th day of June, in the year of our Lord one thousand nine hundred and seven.

[Seal Court of Appeals, District of Columbia.]

HENRY W. HODGES,
Clerk of the Court of Appeals of the District of Columbia.

Allowed by

L. E. McCOMAS,

*Associate Justice of the Court of Appeals
of the District of Columbia.*

Endorsed on cover: District of Columbia police court. No. 1796.
John Collins, plaintiff in error, vs. District of Columbia. Court of
Appeals, District of Columbia. Filed Jun- 21, 1907. Henry W.
Hodges, clerk.